STATUTORY INSTRUMENTS

2012 No. 2898

EXCISE

The Machine Games Duty (Exemptions) Order 2012

Approved by the House of Commons

Made - - - -	*19th November 2012*
Laid before the House of Commons	*19th November 2012*
Coming into force - -	*1st February 2013*

The Treasury make the following Order in exercise of the powers conferred by paragraphs 8(1)(b), 8(2) and 39(2) of Schedule 24 to the Finance Act 2012(**a**).

Citation and commencement

1.—(1) This Order may be cited as the Machine Games Duty (Exemptions) Order 2012.

(2) This Order comes into force on 1st February 2013.

Interpretation

2. In this Order, "specified circumstance" means a circumstance that is specified for the purposes of paragraph 8(1)(b) of Schedule 24 to the Finance Act 2012.

Charitable events

3.—(1) Playing dutiable machine games at a charitable event is a specified circumstance.

(2) An event is a "charitable event" if—

(a) the event is promoted by or on behalf of a not-for-profit organisation,

(b) the whole of the net proceeds from the event are to be applied for purposes other than private gain, and

(c) the opportunity to win prizes by playing dutiable machine games at the event does not constitute the only, or the only substantial, inducement for people to attend the event.

(3) Proceeds of an event promoted by or on behalf of a not-for-profit organisation that are applied for a purpose calculated to benefit the organisation as a whole are not to be regarded as applied for purposes of private gain by reason only that their application for that purpose results in benefit to any person as an individual.

(4) "Net proceeds", in relation to an event, means the proceeds from the event (including the proceeds from playing dutiable machine games at the event) after deducting the expenses of the event (including any expenses incurred in connection with making machines available there for

(**a**) 2012 c. 14.

playing dutiable machine games on them and with providing prizes to successful players of those games) so far as the expenses are reasonable.

(5) "Not-for-profit organisation" means an organisation (including any club, society, institution or association of persons and any separate branch or section of a club, society, institution or association of persons) that is established and conducted wholly for purposes other than purposes of any commercial undertaking.

Tournaments

4.—(1) Playing dutiable machine games in a tournament is a specified circumstance.

(2) A dutiable machine game is played "in a tournament" if—

(a) two or more real people participate in the game (or in a competition that involves a combination of machine games including the game),

(b) they are the only participants in the game (or competition), and

(c) they compete purely against each other for the prize for which the game (or competition) is being played.

(3) "Real" means non-virtual.

(4) A dutiable machine game is not to be regarded as being played in a tournament merely because the success or failure of the player, or the value of the prize, is or may be determined wholly or partly by reference to the success or failure of other players of dutiable machine games, or the value of other prizes won.

(5) A dutiable machine game is not to be regarded as being played in a tournament if the participants in the game (or competition) include—

(a) a person who is a registrable person in respect of the premises where the machine on which the game is played is located,

(b) a representative or employee of such a person at those premises, or

(c) a person acting for or at the direction of such a person.

Lottery machines

5.—(1) Participating in a lottery by means of a sub-category B3A machine is a specified circumstance.

(2) The reference to participating in a lottery is to be read in accordance with section 14 of the Gambling Act 2005(**a**).

(3) "Sub-category B3A machine" has the meaning given in regulation 5 of the Categories of Gaming Machine Regulations 2007(**b**).

Record-keeping and information provision

6.—(1) Before an amount is left out of account by virtue of this Order, in calculating the takings and payouts of a taxable person under paragraph 7 of Schedule 24 to the Finance Act 2012, that person must make such records as are reasonably necessary to show that the amount arises in a circumstance that is a specified circumstance under any of articles 3 to 5.

(2) Nothing in this article limits any power HMRC may otherwise have to require a person to keep records or provide information or documents.

(**a**) 2005 c. 19.
(**b**) S.I. 2007/2158.

Desmond Swayne
Mark Lancaster
19th November 2012 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Schedule 24 to the Finance Act 2012 ("the Schedule") introduces a new duty of excise, known as machine games duty, to be charged on the playing of dutiable machine games in the United Kingdom.

By virtue of paragraphs 8(1)(b) and 8(2) of the Schedule, the Treasury may specify by order the circumstances in which amounts are to be left out of account in respect of the takings and payouts when calculating the duty payable. Each of these is referred to in the Order as a "specified circumstance".

Article 3 provides that playing a dutiable machine game at a charity event is a specified circumstance provided the conditions are met.

Article 4 provides that playing a dutiable machine game in a tournament is a specified circumstance provided the conditions are met.

Article 5 provides that participating in a lottery by means of a sub-category B3A machine is a specified circumstance. Sub-category B3A machines are defined in regulation 5 of the Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158).

Article 6 imposes a condition about making records on a person wishing to leave an amount out of account (that is, to rely on an exemption conferred by the Order). The power to specify conditions to be met before amounts are left out of account is in paragraph 8(2)(b) of the Schedule.

A Tax Information and Impact Note covering this instrument and Schedule 24 to the Finance Act 2012 was published on 21st March 2012 and is available on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

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